

## II. REMARKS

### Formal Matters

Claims 3, 4, 7, 10, 14, 20, 21, and 27-47 are pending after entry of the amendments set forth herein.

Claims 2-5, 7, 10, 14, 20, 21, 23-25, 27-39 were examined. Claims 2-5, 7, 10, 14, 20, 21, 23, and 27-36 were rejected. Claims 24, 25, and 37-39 were objected to.

Claims 3, 4, 7, 10, 20, 27, 31, 34, and 36-39 are amended. The amendments to the claims were made solely in the interest of expediting prosecution, and are not to be construed as an acquiescence to any objection or rejection of any claim. Claims 3, 4, and 7 were amended to change the claim dependency; and, no new matter is added by these amendments. Support for the amendments to claims 10, 20, 27, 31, 34, and 36-39 is found in the claims as originally filed, and throughout the specification, in particular at the following exemplary locations: claims 10 and 31: paragraph 0062; claims 20, 27, 24, and 36-39: paragraphs 0054, 0086, and 0089. Accordingly, no new matter is added by these amendments.

Claims 2, 5, and 23-25 are canceled without prejudice to renewal, without intent to acquiesce to any rejection, and without intent to surrender any subject matter encompassed by the canceled claims. Applicants expressly reserve the right to pursue any canceled subject matter in one or more continuation and/or divisional applications.

Claims 40-47 are added. Support for new claims 40-47 is found in the claims as originally filed, and throughout the specification, including the following exemplary locations: claims 40 and 42: paragraph 00105; claim 41: paragraph 0010; claim 43: paragraph 00106; claim 44: paragraph 0062; claim 45: paragraph 0063; claim 46: paragraphs 0008 and 0092; and claim 47: paragraph 0009. Accordingly, no new matter is added by these new claims.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

### Claim objections

Claims 2, 23, 27, 34, 36, and 37-39 were objected to. The Office Action stated that the term “a signal sequence” refers to a peptide sequence.

Claims 2 and 23 are canceled without prejudice to renewal.

Claims 27, 34, 36, and 37-39 are amended to recite “a nucleic acid encoding a signal sequence”

or similar language, thereby adequately addressing this objection.

Rejection under 35 U.S.C. §102(b)

Claim 2 was rejected under 35 U.S.C. §102(b) as allegedly anticipated by Singh et al. (U.S. Patent No. 5,965,455; “Singh”) as evidenced by Schultz et al. ((1987) *Gene* 54:113-123; “Schultz”).

Applicants’ position on this issue has already been made of record, e.g., in the amendment, filed on September 11, 2003 and responsive to the Office Action mailed July 30, 2003. Without conceding as to the correctness of this rejection, claim 2 is canceled without prejudice to renewal, thereby rendering this rejection moot.

Applicants submit that the rejection of claim 2 under 35 U.S.C. §102(b) has been adequately addressed in view of the remarks set forth above. The Examiner is thus respectfully requested to withdraw the rejection.

Rejection under 35 U.S.C. §103(a)

Claims 2 and 4 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Singh as evidenced by Schultz in view of Kim et al. ((1997) *Gene* 293-301). Claims 7 and 23 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Rogers et al. (U.S. Patent No. 5,776,761) in view of Singh and Schultz.

Claims 2 and 4 over Singh in view of Kim

Applicants’ position on this issue has already been made of record, e.g., in the amendment, filed on September 11, 2003 and responsive to the Office Action mailed July 30, 2003. Without conceding as to the correctness of this rejection, claim 2 is canceled without prejudice to renewal, thereby rendering this rejection moot.

Claim 4 is amended to depend from claim 36, which claim 36 was not rejected under 35 U.S.C. §103.

Claims 7 and 23 over Rogers in view of Singh and Schultz

Applicants’ position on this issue has already been made of record, e.g., in the amendment, filed on September 11, 2003 and responsive to the Office Action mailed July 30, 2003. Without conceding as to the correctness of this rejection, claim 23 is canceled without prejudice to renewal, thereby rendering

this rejection moot.

Claim 7 is amended to depend from claim 36, which claim 36 was not rejected under 35 U.S.C. §103.

Conclusion as to the rejections under 35 U.S.C. §103(a)

Applicants submit that the rejections of claims 2, 4, 7, and 23 under 35 U.S.C. §103(a) have been adequately addressed in view of the remarks set forth above. The Examiner is thus respectfully requested to withdraw these rejections.

Rejection under 35 U.S.C. §112, second paragraph

Claims 2-5, 7, 10, 14, 20, 21, and 27-36 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite.

Claims 2, 27, 34, and 36 and claims depending therefrom

The Office Action stated that claims 2, 27, 34, and 36 and their dependent claims are vague and indefinite in that the metes and bounds of “derived from” are unclear.

Claim 2 is canceled without prejudice to renewal, thereby rendering this rejection moot.

Without conceding as to the correctness of this rejection, claims 27, 34, and 36 are amended to delete the word “derived.”

Claim 2 and claims depending therefrom

The Office Action stated that in claim 2 and its dependent claims it is unclear what is encompassed by the phrase “a plant allergen derived from a non-host species of a first phylum or first kingdom” is unclear.

Claim 2 is canceled without prejudice to renewal, thereby rendering this rejection moot.

Conclusion as to the rejections under 35 U.S.C. §112, second paragraph

Applicants submit that the rejection of claims 2-5, 7, 10, 14, 20, 21, and 27-36 under 35 U.S.C. §112, second paragraph, has been adequately addressed in view of the remarks set forth above. The Examiner is thus respectfully requested to withdraw the rejection.

Allowable subject matter

Applicants note with gratitude that claims 24 and 2 were considered allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

### III. CONCLUSION

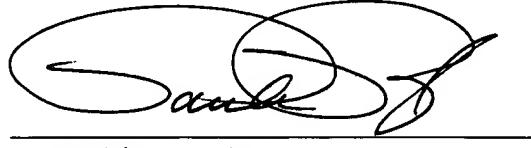
Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number UCAL203.

Respectfully submitted,  
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Date: March 11, 2004

By: \_\_\_\_\_

  
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